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April 28, 2020

Farmer, Cline & Campbell, PLLC
Attn: R. Chad Duffield, Esq.
P.O. Box 3842
Charleston, WV 25314

Re: ERIE Claim	#A00002429193
ERIE Insured:	Pison Management, Inc.
Date of Loss:	8/9/19
ERIE Policy	#Q02-5830178
Claimant:	James Cooper

Dear Mr. Duffield:

This letter will acknowledge receipt by Erie Insurance Property & Casualty Company ("ERIE") of your letter of March 30, 2020 concerning the above-referenced matter.

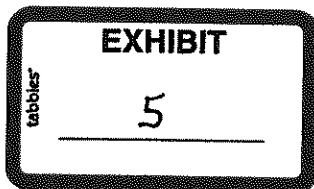
Based on your disagreement with ERIE's determination that no Underinsured Motorist coverage is available for James Cooper under the Commercial Auto Insurance Policy, Policy #Q02-5830178 (the "ERIE Policy"), issued to Pison Management, LLC, ERIE has again reviewed this matter for the availability of coverage to Mr. Cooper. As set forth herein, ERIE has completed that review and maintains its prior denial of Underinsured Motorist coverage. This is based on the determination that the ERIE Policy does not extend Underinsured Motorist coverage to non-owned autos and based on the determination that James Cooper does not qualify as Others We Protect for purposes of Underinsured Motorist coverage.

In reaching this decision, ERIE has reviewed the Uniform Traffic Crash Report for the August 9, 2019 motor vehicle accident and the ERIE Policy. Based on that review, it is ERIE's understanding that at the time of the accident James Cooper was a passenger in a 2007 Dodge Caliber owned and operated by Rick Huffman. Mr. Huffman and Mr. Cooper were traveling on Route 21 in Kanawha County, following a 2004 Chevrolet Silverado owned by Pison Management, LLC and operated by its employee, Demetrius Elder. The accident occurred when a 2008 Toyota Corolla, owned and operated by Thelma White, crossed the center line, clipping the Silverado and struck the Caliber head on.

In review of the ERIE Policy, the 2004 Chevrolet Silverado involved in the accident was a covered auto, and is listed on the Declarations page. The 2007 Dodge Caliber is not listed on the Declarations of the ERIE Policy. Accordingly, in accordance with the terms of the ERIE Policy, it is considered a **non-owned auto**. The ERIE Policy provides as follows:

AUTOS WE INSURE

The **Declarations** shows which of the following are **autos we insure** under this policy:



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3. **Non-Owned Autos (Employer's Non-Ownership Liability).** These are autos you do not own, hire, rent or borrow that are used in your business, but only for coverages for which a premium charge is shown. This includes autos owned by your partners, employees or members of their households, but only while used in your business or personal affairs.

ERIE has determined that the 2007 Dodge Caliber owned and operated by Rick Huffman qualifies as a **non-owned auto** under the ERIE Policy. This assessment is based on the understanding that Mr. Huffman was using his private vehicle during the course of his employment for Pison Management, LLC.

As set forth in the foregoing language of the ERIE Policy, coverage for **non-owned autos** under the ERIE Policy is only provided when a premium is charged for that coverage. The **Declarations** of the ERIE Policy provides various premium charges for the different types of coverages provided based on different vehicle classifications. With regard to **non-owned autos**, the only premium charge is for Employer's Non-Owned Liability. There is no premium charge for Underinsured Motorist coverage. Accordingly, Underinsured Motorist coverage is not extended to **non-owned autos** under the ERIE Policy.

Separately, Uninsured/Underinsured Motorists Coverage is provided by way of endorsement to the Erie Policy. The insuring provisions for that coverage provides as follows:

UNINSURED/UNDERINSURED MOTORISTS COVERAGE ENDORSEMENT – WEST VIRGINIA

OUR PROMISE

We will pay damages for bodily injury and property damage that you or your legal representative are legally entitled to recover from the owner or operator of an **uninsured motor vehicle**. If Underinsured Motorists Coverage is indicated on the **Declarations**, we will pay damages for bodily injury and property damage that you or your legal representative are legally entitled to recover from the owner or operator of an **underinsured motor vehicle**.

Damages must result from a motor vehicle accident arising out of the ownership or use of the **uninsured motor vehicle** or **underinsured motor vehicle** as a motor vehicle and involve:

1. bodily injury to you or others we protect. Bodily injury means physical harm, sickness, disease or resultant death to a person; or
2. property damage, meaning destruction of or injury to:
 - a. an **owned auto we insure** and property owned by anyone we protect while contained in such **auto**;
 - b. property owned by you or a **relative** while contained in any **auto we insure** under this coverage; and

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- c. any other property (except a motor vehicle) owned by anyone we protect and located in West Virginia.

If loss results in an Uninsured or Underinsured Motorists Property Damage claim, we will pay you the greater of the fair market rental value of a like kind replacement vehicle or the amount to which you are entitled under Transportation Expenses Coverage, if purchased.

We will not be bound by a judgment against the owner or operator of the **uninsured motor vehicle** or **underinsured motor vehicle** on issues of liability or amount of damages unless it is obtained with our written consent.

For bodily injury, the insuring provisions for Uninsured/Underinsured Motorists Coverage is limited to you and others we protect. You is defined by the ERIE Policy as follows:

ADDITIONAL ERIE INSURANCE COMPANY AND ERIE INSURANCE PROPERTY AND CASUALTY COMPANY DEFINITIONS

The following words have a special meaning in policies issued by the Erie Insurance Company and Erie Insurance Property and Casualty Company when they appear in bold type:

"you", "your" and "Named Insured" means the person(s) or organization(s) named in Item 1 on the **Declarations**. Except in the **RIGHTS AND DUTIES--GENERAL POLICY CONDITIONS** Section, these words include your spouse if a resident of the same household.

Item 1 on the **Declarations** of the ERIE Policy lists Pison Management, LLC as the Named Insured.

Uninsured/Underinsured Motorists Coverage is also extended to others we protect for purposes of bodily injury. Specifically, the UM/UIM Endorsement provides:

OTHERS WE PROTECT

We also protect:

1. any relative, if you are an individual.
2. anyone else, while occupying any owned auto we insure other than an owned auto we insure being used without the permission of the owner.
3. anyone else who is entitled to recover damages because of bodily injury to any person protected by this coverage.
4. if you are an individual, anyone else while occupying a non-owned auto we insure other than:
 - a. one you are using that is owned or lease by another person residing in your household.

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- b. one furnished or available for the regular use of you or anyone residing in your household.
- c. one being operated by anyone other than you or a relative.

Based on the terms of the ERIE Policy, Uninsured/Underinsured Motorists coverage is only provided to others we protect while occupying non-owned autos when you or the Named Insured is an individual. Pison Management, LLC is not an individual, so Uninsured/Underinsured Motorists coverage is not provided for non-owned autos under the ERIE Policy.

The denial of insurance coverage as set forth herein is based on the facts and circumstances as we understand them, and as revealed through our investigation into this claim. If there are any facts or circumstances which you would like for us to consider which are not identified herein, we would be happy to do so.

Please be advised that ERIE reserves all of its rights and defenses set forth in the ERIE Policy and further reserves the right at any time in the future to assert any of the foregoing, as well as any other reason that becomes apparent or into existence, as further reason for declining to provide indemnification with respect to this claim.

You have the option of contacting the Office of the Insurance Commissioner with the following information: toll free 1-888-TRYWVIC (1-888-879-9842); TTY 1-800-435-7381; Facsimile (304) 558-4965; or Email OICConsumerServices@wv.gov. Correspondence may be sent to: West Virginia Offices of the Insurance Commissioner, ATTN: Consumer Service Division, P.O. Box 50540, Charleston, West Virginia 25305-0540. Their physical address: 900 Pennsylvania Avenue, Charleston, West Virginia 25302.

Sincerely,

Dedria Miller
Dedria Miller
Liability Adjuster
West Virginia Claims Office
(304) 903-8746

DM:sab